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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

THE PEOPLE,

Plaintiff and Respondent,

v.

STEVE ALVARADO,

Defendant and Appellant.

F057817

(Super. Ct. No. 1242023)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Stanislaus County. Dawna F. Reeves, Judge.

Deborah Prucha, under appointment by the Court of Appeal, for Defendant and Appellant.

Office of the State Attorney General, Sacramento, California, for Plaintiff and Respondent.

* Before Wiseman, Acting P.J., Dawson, J., and Poochigian, J.

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Appellant Steve Alvarado pled no contest to assault with a deadly weapon (Pen. Code, § 245, subd. (a)(1))¹ and admitted an enhancement allegation that in committing that offense he personally inflicted great bodily injury (§ 12022.7, subd. (a)). The court imposed a prison term of six years, consisting of three years on the substantive offense and three years on the enhancement.

Appellant's appointed appellate counsel has filed an opening brief which summarizes the pertinent facts, with citations to the record, raises no issues, and asks that this court independently review the record. (*People v. Wende* (1979) 25 Cal.3d 436.) Appellant has not responded to this court's invitation to submit additional briefing. We will affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Facts

Prior to the entry of appellant's plea, the prosecutor stated, and defense counsel agreed, that the factual basis for appellant's plea was the following: On or about February 25, 2008,² appellant struck his 87-year-old mother with a stick several times about her face and head. The victim suffered "fractures to her face area" and required hospitalization and "severe suturing and staples."

Procedural History

It was alleged in a criminal complaint filed February 27, that appellant committed assault with a deadly weapon and elder abuse in which the victim suffered great bodily injury (§ 368, subd. (b)(2)); in committing the former offense appellant personally

¹ All statutory references are to the Penal Code.

² Except as otherwise indicated, all references to dates of events are to dates in 2008.

inflicted great bodily injury (§ 12022.7, subd. (a)); and the victim of that offense was 65 years of age or older (§ 667.9, subd. (a)).

On March 20, the complaint was amended as follows: the great bodily injury enhancement was alleged under section 12022.7, subdivision (c) (victim 70 years of age or older), rather than section 12022.7, subdivision (a); the section 667.9 allegation was stricken; and it was specified that appellant committed elder abuse in violation of section 368, subdivision (b)(2)(B), rather than section 368, subdivision (b)(2). Also on that date, the court ordered criminal proceedings suspended and that appellant's mental competence be determined pursuant to section 1368.

On April 16, the court found appellant incompetent, and on May 28 the court ordered appellant committed to Atascadero State Hospital (ASH).

On April 9, 2009, the court, after receiving a certification of mental competency from the Director of ASH, found appellant competent and reinstated criminal proceedings.

On April 23, 2009, the following occurred: the complaint was again amended, to allege the great bodily injury enhancement under subdivision (a) of section 12022.7; appellant entered his plea pursuant to a plea agreement, the terms of which included that he would receive a prison sentence of six years; the court dismissed the elder abuse charge; and the court imposed sentence.

On May 28, 2009, appellant filed a notice of appeal in which he requested that the court issue a certificate of probable cause. On June 1, 2009, the court denied that request.

DISCUSSION

Following independent review of the record, we have concluded that no reasonably arguable legal or factual issues exist.

The judgment is affirmed.